

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Spring Dale Post Office
Spring Dale, West Virginia

Docket No. A2012-68

ORDER AFFIRMING DETERMINATION

(Issued February 27, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On November 14, 2011, Paul McClung (Petitioner McClung) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Spring Dale, West Virginia post office (Spring Dale post office).² Additional petitions for review were received from Angie Brown (Petitioner Brown); Gary Walker (Petitioner Walker); Betty Puckett (Petitioner Puckett); Melissa Porter; and Arlene Ingram (Petitioner Ingram).³ The Final Determination to close the Spring Dale post office is affirmed.⁴

II. PROCEDURAL HISTORY

On November 30, 2011, the Commission established Docket No. A2012-68 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁵

² Petition for Review received from Paul E. McClung regarding the Spring Dale, West Virginia post office 25986, November 14, 2011 (McClung Petition). There are two attachments to this Petition. Attachment 1 is a letter from Charles M. Johnson, Esquire (on behalf of the Concerned Citizens for the Spring Dale Post Office, “CCSDPO”) to Paul Bradshaw, Post Office Review Coordinator for the Appalachian District, July 14, 2011. Attachment 2 is a six page document from Paul McClung (on behalf of the CCSDPO) to Charles M. Johnson, Esquire, detailing Spring Dale postal customers’ concerns about procedural irregularities in the discontinuance process.

³ Petition for Review received from Angie Brown, November 16, 2011; (Brown Petition); Petition for Review received from Gary Walker, November 18, 2011 (Walker Petition); Petition for Review received from Betty Puckett, November 22, 2011 (Puckett Petition); Petition for Review received from Melissa Porter, November 29, 2011 (Porter Petition); and Petition for Review received from Arlene S. Ingram, November 30, 2011 (Ingram Petition).

⁴ The Commission is divided equally, 2-2, on the outcome of this appeal. In the absence of a majority, the Final Determination stands.

⁵ Order No. 1010, Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 30, 2011.

On November 29, 2011, the Postal Service filed the Administrative Record with the Commission.⁶ The Postal Service supplemented the Administrative Record on December 13, 2011.⁷ On January 12, 2011, the Postal Service again supplemented the Administrative Record.⁸

The Postal Service filed comments requesting that the Commission affirm its Final Determination.⁹ Petitioner McClung filed an initial brief and reply brief in support of his Petition.¹⁰ On February 1, 2012, the Public Representative filed a reply brief.¹¹ On February 13, 2012, the Postal Service filed a response to the Public Representative's reply comments.¹² On February 21, 2012, Petitioner McClung filed additional responsive comments.¹³

⁶ The Administrative Record is attached to the United States Postal Service Notice of Filing, November 29, 2011 (Administrative Record). The Administrative Record includes, as Item No. 49, the Final Determination to Close the Spring Dale, WV Post Office and Extend Service by Highway Contract Route Service (Final Determination).

⁷ United States Postal Service Notice of Supplemental Filing, December 13, 2011. This filing includes six pages of a document that was omitted from the Administrative Record. Letter from Charles M. Johnson, Esquire, of Frost, Brown, & Todd LLC, to Paul Bradshaw, Post Office Review Coordinator, Appalachian District, July 14, 2011, attaching a second letter from Paul McClung, on behalf of the CCSDPO, undated.

⁸ United States Postal Service Notice of Supplemental Filing, January 11, 2012, correcting the Spring Dale Office Administrative Record. Item Nos. 17, 41, 49 indicated that the designated replacement service would be highway contract route service. The corrected documents reflect that the designated alternative is rural route carrier service.

⁹ United States Postal Service Comments Regarding Appeal, January 11, 2012 (Postal Service Comments). Along with the Postal Service Comments, the Postal Service also filed a Motion of the United States Postal Service for Late Acceptance of United States Postal Service Comments, January 11, 2012. The motion is granted.

¹⁰ Initial Brief of Petitioner Paul McClung, December 19, 2011 (McClung Initial Brief); Reply Brief of Petitioner Paul McClung, January 24, 2012 (McClung Reply Brief).

¹¹ Public Representative Reply Comments, February 2, 2012 (PR Reply Comments). The Public Representative filed a Motion of Public Representative for Late Acceptance of Comments, January 30, 2012. The motion is granted.

¹² United States Postal Service Response to Public Representative Reply Comments, February 13, 2012 (Postal Service Reply Comments). The Postal Service also filed a Motion for Leave to File Response to Reply Comments, February 13, 2012. The motion is granted.

¹³ Reply In Regard to United States Postal Service Response Concerning Public Representative Comments, February 21, 2012. The reply was accompanied by Motion for Leave to File Response to United States Postal Service Reply Comments, February 21, 2012. The motion is granted.

III. BACKGROUND

The Spring Dale post office provides retail postal services and service to 88 post office box or general delivery customers. Final Determination at 2. No delivery customers are served through this post office. The Spring Dale post office, an EAS-11 level facility, provides retail service from 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m., Monday through Friday, and 8:00 a.m. to 10:00 a.m. on Saturday. Lobby access hours are the same as retail service hours. *Id.*

The postmaster position became vacant on May 31, 2009 when the Spring Dale postmaster retired. A non-career officer-in-charge (OIC) was installed to operate the post office. *Id.* at 13. Retail transactions average 30 transactions daily (32 minutes of retail workload). *Id.* at 2. Post office receipts for the last 3 years were \$20,233 in FY 2008; \$18,043 in FY 2009; and \$17,698 in FY 2010. There are no permit or postage meter customers. *Id.* By closing this post office, the Postal Service anticipates savings of \$51,938 annually. *Id.* at 13.

After the closure, retail services will be provided by the Meadow Bridge post office located approximately 4 miles away.¹⁴ *Id.* at 2. Delivery service will be provided by rural carrier service through the Meadow Bridge post office. The Meadow Bridge post office is an EAS-15 level post office, with retail hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, and 8:00 a.m. to 12:00 p.m. on Saturday. There are 58 post office boxes available. *Id.* The Postal Service will continue to use the Spring Dale name and ZIP Code. *Id.* at 12, Concern No. 1.

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners oppose the closure of the Spring Dale post office. Petitioners argue that the Postal Service failed to consider public input and violated procedural requirements for due process when it conducted the discontinuance study.

¹⁴ MapQuest estimates the driving distance between the Spring Dale and Meadow Bridge post offices to be approximately 3.1 miles (5 minutes driving time).

McClung Petition at 2; McClung Initial Brief at 3-4, 5-6, 8-9; Walker Petition at 1; Brown Petition at 1; Porter Petition at 1. Petitioners state that the proposed alternative service will not meet the needs of their businesses. McClung Petition at 2; Walker Petition at 1; McClung Initial Brief at 4; McClung Reply Brief at 2. Petitioners argue that the proposed rural carrier replacement service is not viable for senior citizens and other postal customers. Brown Petition at 2; Puckett Petition at 1. Petitioners argue that the Spring Dale community and other local communities will be negatively affected by the closure of the post office. Brown Petition at 2; Ingram Petition at 1; Puckett Petition at 1. Petitioners are concerned that the OIC will lose her job. McClung Initial Brief at 16; McClung Reply Brief at 6. Petitioners question the Postal Service's economic analysis. McClung Initial Brief at 2, 14; McClung Reply Brief at 5-6; Walker Petition at 2.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Spring Dale post office. Postal Service Comments at 2. The Postal Service believes the appeal raises five main issues: (1) the impact upon the Spring Dale community; (2) provision of effective and regular postal services; (3) economic savings expected to result from discontinuing the Spring Dale post office; (4) employment; and (5) compliance with required discontinuance procedures. *Id.* at 1-2. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Spring Dale post office should be affirmed. *Id.* at 15.

The Postal Service explains that its decision to close the Spring Dale post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and declining office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- the projected population decline in the area;
- minimal impact upon the community; and

- expected financial savings.

Id. at 4. The Postal Service contends that it will continue to provide regular and effective postal services to the Spring Dale community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioners regarding the effect on postal services, the effect on the Spring Dale community, economic savings, and the effect on postal employees. *Id.* at 15.

Public Representative. The Public Representative recommends remanding the Final Determination to close the Spring Dale post office. PR Reply Comments at 1. She believes that the Postal Service has failed to demonstrate the ability to provide adequate replacement service if the Spring Dale post office is discontinued. She specifically comments on the number of hardship cases, the snowy mountainous area, the specific business needs, and the uncertainty around extending the route. She comments generally that the Postal Service did not give meaningful consideration to the valid concerns expressed by nearly all community members. *Id.* The Public Representative also asserts that the Final Determination is defective in its economic analysis. *Id.* at 6-10.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such

determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The Administrative Record indicates the Postal Service took the following steps in providing notice of its intent to close. On March 18, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Spring Dale post office. Final Determination at 2. A total of 110 questionnaires were distributed to delivery customers. Other questionnaires were made available at the retail counter. A total of 92 questionnaires were returned. On April 6, 2011, the Postal Service held a community meeting at the Spring Dale post office to address customer concerns. Fifty-seven (57) customers attended. *Id.*

The Postal Service posted the proposal to close the Spring Dale post office with an invitation for comments at the Spring Dale and Meadow Bridge post offices from May 13, 2011 through July 14, 2011. The Final Determination was posted at the same two post offices from October 21, 2011 to November 22, 2011. Administrative Record, Item No. 49-1, 49-2.

Petitioners argue that the proposal should also have been posted at the nearby Rainelle, West Virginia post office since that post office would be affected if the Spring

Dale post office were closed. Puckett Petition at 1; McClung Petition, Attachment at 6.¹⁵ In this instance, sufficient notice was provided by postings at the closing post office and the replacement post office. It was not necessary to also provide notice at the Rainelle post office located almost 10 miles from the closing post office.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

The Postal Service must also comply with the provisions of 39 U.S.C. § 101(b), which prohibits closing any small post office solely for operating at a deficit.

Effect on the community. Spring Dale is an unincorporated community located in Fayette County, West Virginia. Administrative Record, Item No. 16. The community is administered politically by the Fayetteville County Commission. Police protection is provided by the Fayette County Sheriff and West Virginia State Police. Fire protection is provided by the Meadow Bridge and Rainelle Fire Departments. The community is comprised of retirees, farmers, those residents who are self-employed, those residents who work in local businesses, and those residents who commute to work at nearby communities. Residents may travel to nearby communities for other supplies and services. See *generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal

¹⁵ MapQuest estimates the driving distance between the Spring Dale and Rainelle post offices to be approximately 9.2 miles (13 minutes driving time).

Service met with members of the Spring Dale community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Spring Dale post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 2-13.

Petitioner Brown was concerned that losing the Spring Dale post office would result in the loss of a community center and a way to check on neighbors and seniors. Brown Petition at 2. Petitioner Ingram states that the Spring Dale post office was in "a good location" for postal customers both in Spring Dale and those passing through the area on the way to the towns of Rainelle in the north or Meadow Bridge in the south. Ingram Petition at 1.

The Postal Service responds that the effect of the closing of the Spring Dale post office on the community was extensively considered, as reflected in the Administrative Record. Postal Service Comments at 9. The Postal Service adds that while the post office may serve alternative functions in practice, Congressional mandates require the Postal Service provide regular and effective service and execute its mission efficiently and economically. The Postal Service states that the proposed alternative delivery service will meet the mailing and service needs of the community in a more cost-effective and yet equally capable manner. *Id.* at 10.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the Spring Dale postmaster retired on May 31, 2009 and that an OIC has operated the Spring Dale post office since then. Final Determination at 2. It asserts that after the Final Determination is implemented, the temporary OIC may be separated from the Postal Service and that no other Postal Service employee will be adversely affected. *Id.* at 13. Petitioner McClung is concerned that the OIC will likely lose her job. He observes that the OIC has been employed at the Spring Dale post office for 21 years and that her husband was recently diagnosed with cancer. McClung Initial Brief at 16; McClung Reply Brief at 6. The

Postal Service responds that it understands and is sympathetic to this concern, but it is charged with responsibility to promote efficiency of operations. The Postal Service states that the loss of the OIC position does not outweigh the other considerations in the Final Determination. Postal Service Comments at 12.

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Spring Dale post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Spring Dale customers. *Id.* at 5. It asserts that customers of the closed Spring Dale post office may obtain retail services at the Meadow Bridge post office located 4 miles away. Final Determination at 2. Delivery service will be provided by rural carrier service through the Meadow Bridge post office. The Spring Dale post office box customers may obtain Post Office Box service at the Meadow Bridge post office, which has 58 boxes available. *Id.* The Public Representative notes that the number of post office box customers at the Spring Dale post office is contested: Petitioners count 96 and the Postal Service counts 88. PR Reply Comments at 6. Petitioner McClung argues that the number of post office boxes available at Meadow Bridge is insufficient to meet the needs of Spring Dale post office customers. McClung Petition, Attachment 2 at 6. Petitioner Puckett is concerned about the challenges that seniors will face when driving to the Meadow Bridge post office, particularly with respect to curvy roads and inclement weather. Puckett Petition at 1. Petitioner Brown is concerned about the distance that postal customers must travel if the Spring Dale post office is closed. She adds that some postal customers utilize Spring Dale because their own post offices have been closed, and that it is “not justifiable or appropriate to do this to them again.” Brown Petition at 2.

For customers choosing not to travel to the Meadow Bridge or other post offices, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 6. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the

mailbox. The Postal Service further explains that in hardship cases, delivery can be made to the home of the customer. *Id.* The Public Representative describes the snowy, mountainous terrain of the Spring Dale, West Virginia area, and argues that the Postal Service did not consider the fact that many customers could not shovel snow and were not in areas with regularly or well-maintained roads. She notes that the Postal Operations Manual explicitly states that roads must be maintained and clear of snow for both hardship cases and route extensions. PR Reply Comments at 2. Consequently, the Public Representative believes that the Postal Service cannot adequately provide retail and delivery services to roadside mailboxes located near customers' residences. *Id.*

The Postal Service responds that although snow conditions may affect mail delivery, it is not apparent whether they make a material difference in this case. According to the Postal Service, "Snow conditions undoubtedly affect mail delivery in large sections of the nation; equally without doubt is that such conditions are manageable and managed throughout the nation." Postal Service Reply Comments at 5. The Postal Service notes "[t]he Public Representative has not pointed to any record evidence or other indication that reliance upon rural carrier service would disenfranchise current Spring Dale Post Office box customers on snow days *to a greater degree than is currently the case.*" *Id.* (Emphasis in original.)

Petitioners question the effect of closing the Spring Dale post office on business mail, including shipping packages and receiving or sending accountable mail. Walker Petition at 1; McClung Petition at 2. Petitioners Walker and McClung argue that alternative service would not work for the Spring Dale business community. McClung Initial Brief at 4; Walker Petition at 1. The Postal Service responds that these concerns were considered by the Postal Service. Postal Service Comments at 5. The Postal Service explains that various options exist for shipping packages and that such shipping can be handled by the carrier. *Id.* at 7. The carrier can also provide service for accountable mail. *Id.* at 6-7.

Petitioner McClung expressed concerns about mail security. McClung Petition at 2. The Postal Service responds that it researched this issue with the Postal Inspection Service and received no reports of mail theft or vandalism in the area. Furthermore, the Fayette County Sheriff's Office stated that no recent complaints had been logged regarding the Spring Dale post office. Postal Service Comments at 8.

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$51,938. Final Determination at 13. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,279) and annual lease costs (\$11,319), minus the cost of replacement service (\$3,660). *Id.*

Petitioner Walker argues that the cost of replacement services has been underestimated. He specifies that the \$3,600 reduces to about \$15 per day. He states that this estimate is unrealistic, based on his experience with estimating, his knowledge of the route, and the number of additional mailboxes needed. Walker Petition at 2. Petitioners argue that their suggestion that the post office building lease expenses could be greatly reduced, if not eliminated, was ignored. Walker Petition at 2; McClung Petition, Attachment 2 at 2; McClung Initial Brief at 2; McClung Reply Brief at 2.

The Postal Service responds that Petitioners provide no evidence of expertise or independent verification of their estimates. The Postal Service argues that the Postal Service's evidence is methodically developed and performed under direction of systematic procedures. Therefore, the conclusion that the rural carrier replacement service will lead to significant savings is sound. Postal Service Comments at 11.

The Public Representative argues that the lost sales from business were not accounted for in the economic analysis, as the business owners she interviewed said they would need to shift to private mail services that could accommodate their needs. PR Reply Comments at 4-5. The Public Representative also asserts that the Highway Contract Route Analysis Form did not factor in the minutes per box, which she adds, is a standard procedure that should have been performed. *Id.* at 7. Furthermore, she

states, the Postal Service has miscalculated the workload and savings calculations. *Id.* at 8. Finally, she argues that the cost savings should have been estimated on the basis of a part-time postmaster salary. *Id.* at 8-11.

The Postal Service responds that the Public Representative “does not cite any evidence supporting her descriptions in the Administrative Record, in a pleading on record, or in a public source of which the Commission may take official notice.” Postal Service Reply Comments at 4. The Postal Service also responds that a recalculation of the alternative service cost would not have an impact on the overall cost savings. *Id.* at 2. The Postal Service argues that not all customers will necessarily migrate to replacement service via carrier service. *Id.* at 3. The Postal Service adds that it is not obligated to reclassify post offices and postmasters’ pay before considering the closure or consolidation of a post office. The Postal Service further notes that the Public Representative did not take into account 8 years of salary increases, so the projected savings are still higher than her reply comments would suggest. *Id.* at 3-4.

The Spring Dale post office postmaster retired on May 31, 2009. Final Determination at 2. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Spring Dale post office has been staffed by an OIC for approximately two and a half years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

Procedural Issues. Petitioners raise various procedural and process concerns. Petitioner McClung questions the window transaction survey process. McClung Petition at 2. He argues that the survey process is arbitrary in that not all post offices slated for

closure have such a survey performed. Petitioners McClung and Walker add that the window transaction survey performed for Spring Dale underestimated the workload. McClung Petition at 3; Walker Petition at 1-2. The Postal Service responds that the survey is a “snapshot in time” which will sometimes reflect normal activity, and in any event, the number of window transactions was only one of several factors informing the Final Determination. Postal Service Comments at 13, n.42.

Petitioners argue that the public hearing held on April 6, 2011 failed to meet the minimum requirements for due process and thus resulted in an incomplete record. The community meeting was not scheduled at a convenient time for many business people and so was not representative of the concerns of the Spring Dale community. McClung Petition, Attachment 1 at 1. Further, Petitioner McClung argues that the Postal Service public meeting was not in compliance with Handbook PO-101.¹⁶ Petitioners felt that debate was limited and the closure of the Spring Dale post office was a foregone conclusion. McClung Petition, Attachment 2 at 1; Porter Petition at 1. The Postal Service responds that its internal regulations give local discontinuance coordinators flexibility in determining meeting times and that no single time is good for every customer. Postal Service Comments at 14, n.44. In any event, the discontinuance process offers customers multiple avenues for providing input. *Id.* Overall, the Postal Service argues, the Administrative Record demonstrates proper process and procedure. *Id.* at 13-14.

The Public Representative notes that the two Postal Service supplemental filings, on December 13, 2011 and January 11, 2012 should be characterized as an omission to the Administrative Record and a correction to the Administrative Record.¹⁷ The

¹⁶ Petitioner McClung quotes Handbook PO-101, part 262, as follows: “Be sure to schedule the meeting at a time that encourages customer participation, such as during an evening or weekend.” He also states that postal customers were not permitted to audiotape the meeting in violation of West Virginia “sunshine laws.” McClung Petition, Attachment 2 at 3-4.

¹⁷ United States Postal Service Supplemental Filing on December 13, 2011 included six pages that were previously left out of the Administrative Record. United States Postal Service Supplemental Filing on January 11, 2012 corrected the Administrative Record to reflect that replacement service would be by rural carrier service rather than highway contract route service.

Public Representative notified the Postal Service of the omission after she was informed by Petitioner McClung that an enclosure letter from the Concerned Citizens of the Spring Dale Post Office had not been included in the Administrative Record filed with the Postal Regulatory Commission. The Public Representative believes these filings to be after the fact revisions of the Administrative Record, which are prohibited by 39 U.S.C. § 404(d)(5). PR Reply Comments at 11 n.22.

In this instance, the cited procedural issues do not rise to a level necessary to change the outcome of the appeal.

Section 101(b). Section 101(b) prohibits closing any small post office solely for operating at a deficit. Petitioners allege that the Postal Service is closing the Spring Dale post office solely for economic reasons. McClung Petition, Attachment at 2.

To be sure, economics plays a role in the Postal Service's decision. However, the Commission is not prepared to conclude that the Postal Service's determination violates section 101(b). In addition to considering workload at the Spring Dale post office (revenues declining and averaging only 30 retail transactions per day), the Postal Service took into account other factors such as the postmaster vacancy, the minimal impact on the community, and expected financial savings. In addition, it considered the alternate delivery and retail options available to customers. Final Determination at 2.

The Postal Service did not violate the prohibition in section 101(b) on closing the Spring Dale post office solely for operating at a deficit.

VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Spring Dale post office is affirmed.¹⁸

¹⁸ See footnote 4, *supra*.

It is ordered:

The Postal Service's determination to close the Spring Dale, West Virginia post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

DISSENTING OPINION OF CHAIRMAN GOLDWAY

Petitioners have in this instance described and identified a number of procedural issues and possible defects in the notice and comment process. The timing of the meeting was not aligned with what the community wanted. Citizens were challenged by Postal Service representatives when asking to make an audio record of the meeting, which is at odds with both the Postal Service's previous and revised policies that permit members of the public to record public meetings associated with post office closures. Petitioners suggest that the Postal Service took inadequate notes to document the public meeting. Documents submitted by Petitioners were originally missing from the Administrative Record.

There were also significant local customer concerns that the Postal Service did not appear to address in the Administrative Record, such as concerns about the ability of the receiving station in Meadow Bridge to handle the increased customer traffic from Spring Dale and environs, and the traffic safety concerns associated with travel to Meadow Bridge.

The community meeting arranged by the Postal Service was a well-attended standing room only event demonstrating strong community interest in the post office and the potential continuing demand for postal services. The degree to which a community cares about their post office can translate into good business for the Postal Service.

The Postal Service did not adequately address in the Administrative Record the service implications for the community resulting from the recent closure of other neighboring post offices, or post offices that are being considered for closure, nor what impact the closures would have on the ability of the Postal Service to maintain "effective and regular postal services." 39 U.S.C. § 404(d)(2)(iii).

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Spring Dale post office has been operated by a non-career officer-in-charge (OIC) following the promotion of the former postmaster on August 30, 2008. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only an OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the Administrative Record that must be corrected on remand.

Also, the economic analysis identified in the Final Determination does not accurately account for the costs of replacement rural or contract delivery service for the 88 customers the Postal Service says it currently provides post office boxes.

Additionally, the community provided detailed information as to shortcomings in the accuracy of the potential economic savings afforded by the closure. The cost estimate of replacement services in the Administrative Record is lacking. The Administrative Record does not include a response to the community's suggestions that the lease be renegotiated at a lower rate. Nor does the Administrative Record demonstrate serious exploration of the option that a nearby building might be available rent free. See, e.g., Administrative Record at 13, Item No. 3; *id.* at 15, Item No. 1; *id.* at 21, Item Nos. 115, 128.

Petitioners apprised the Postal Service that internet service was not generally available in the Spring Dale area. Nevertheless, the Postal Service identifies internet service as being an alternative access method to the postal retail counter, and online postage is a prerequisite for practical use of certain mailing and shipping services.

Businesses in Spring Dale said that they will not be able to use the Postal Service to the same degree after the closure. The economic calculations in the Administrative Record to fairly balance costs and benefits should have recognized and incorporated some measure of loss of revenue due to the closure.

The Administrative Record should be accurate. It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data were in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the Administrative Record and present a more considered evaluation of potential savings.

The Commission has often expressed a concern—and I have consistently expressed the concern—that the maintenance of adequate service requires providing an adequate number of post boxes in the receiving facility. The Spring Dale post office serves 88 post office box or general delivery customers, according to the Postal Service, yet the Meadow Bridge post office designated as the substitute post office has only 58 boxes available. Thus, the Administrative Record does not show that the Postal Service has sufficiently considered the issues raised by customers concerning the provision of effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the

review process, but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium and the opportunity to have further consideration of alternatives by the Postal Service.

The citizens of Spring Dale, West Virginia and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility since May 2009, not an EAS-11 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis.

In addition, the current lease does not terminate until January 31, 2013, and does not have a 30-day termination clause. Administrative Record, Item No. 15 at 1. The Postal Service should note that any savings from the lease will not be realized for nearly 2 years. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

The Postal Service also did not adequately consider the effects on the community and whether the closing is consistent with the Postal Service's provision of "a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post office are not self-sustaining" as required by 39 U.S.C. § 404(d)(2)(A)(i) and 404(d)(2)(A)(iii). The Final Determination indicates that the Spring Dale post office has 88 post office box holders, while the Meadow Bridge post office has 58 post office boxes available. Should all the Spring Dale post office box holders rent post office boxes at the Meadow Bridge post office, there would be a shortage of 30 post office boxes. Final Determination at 2.

I find that the Administrative Record evidence does not support the Postal Service's decision to discontinue operations at the Spring Dale post office and should be remanded.

Nanci E. Langley